IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 8TH JANUARY 2007 / 18TH PAUSHA 1928

WP(C).No. 726 of 2007(J)

PETITIONER:

V. BEENA,
HIGH SCHOOL ASSISTANT (SOCIAL SCIENCE),
S.K.V. HIGH SCHOOL, KUTTAMPEROOR,ALAPPUZHA DIST.

BY ADV. SRI.KRB.KAIMAL (SR.)
SRI.B.UNNIKRISHNA KAIMAL
SRI.V.MADHUSUDHANAN

RESPONDENTS:

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1. DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM.

2. THE DEPUTY DIRECTOR OF EDUCATION,
ALAPPUZHA.

3. THE DISTRICT EDUCATIONAL OFFICER,
MAVELIKKARA.

4. HEADMASTER,
S.K.V. HIGH SCHOOL, KUTTAMPEROOR,
ALAPPUZHA DISTRICT.

5. SMT. S.KRISHNAKUMARI,
H.S.A. (PHYSICAL SCIENCE), S.K.V. HIGH SCHOOL,
KUTTAMPEROOR, ALAPPUZHA DISTRICT.

BY GOVT. PLEADER SRI. A.J. VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No. 726 OF 2007

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Dated this the 8th day of January, 2007

JUDGMENT

Case of the petitioner in brief is as follows:

She was continuously working as HSA (Social Science) since 16.6.1988. Fifth respondent, HSA (Physical Science) is having a continuous service from 1.6.1987. In the academic year 2005-2006 12 posts of HSA were sanctioned. There was a reduction of 2 H.S.As, they are in Physical Science and Natural Science respectively. Since three posts are sanctioned for Social Science, petitioner is not affected by the staff fixation order and it is the fifth respondent who is affected by the staff fixation order as she is the junior most HSA, Physical Science. Hence she was given protection. The second respondent in exercise of power under Rule 12(c) of Chapter XXIII KER proposed to review the staff fixation order and issued Ext.P2 notice proposing to review Ext.P1 staff fixation order, to which petitioner submitted Ext.P3 reply. The third respondent heard all parties and passed Ext.P4 order, by which Ext.P2 proposal was confirmed. The contentions in Ext.P3 were not considered and only on the basis that the fifth

respondent is senior to the petitioner Ext.P4 is passed. Against Ext.P4 petitioner filed Ext.P5 revision before the first respondent, which is pending. The second respondent now in implementation of Ext.P4 order issued Ext.P6 order deploying the petitioner and posting her as HSA (Social Science) in Government V.R.V.M.H.S., Vayalar and recalling the protection and deployment of the fifth respondent.

2. Heard learned counsel for the petitioner and the learned Government Pleader.

3. In the light of the fact that petitioner has already approached the DPI by filing Ext.P5 revision under Rule 12(e), the petitioner has to be certainly relegated to the pursuit of Ext.P5 representation.

Leaving open the contentions of the petitioner, the writ petition is disposed of directing the first respondent to consider and take a decision on Ext.P5 in accordance with law after hearing the petitioner, the fifth respondent and any other affected party as contemplated in law within a period of two months from the date of receipt of a copy of this judgment. In view of the fact that the petitioner has already sought stay of further proceedings to deploy the petitioner, I feel that the DPI

should pass appropriate orders in the matter urgently. Accordingly there will be a further direction to the first respondent to pass appropriate orders on the interim prayer in accordance with law within a period of one week from today.

Communicate the directions to first respondent.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.